



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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September 19, 2006

In Reply Refer To:
6840 (CA930)P

EMS TRANSMISSION: 9/19/06
Information Bulletin No. **CA-2006-025**

To: Field Managers, Arcata, Hollister, and Ukiah

From: State Director

Subject: Proposed Rule to Revise Critical Habitat for the Marbled Murrelet **DD: 11/01/06**

On September 12, 2006, the Fish and Wildlife Service (Service) published a proposed rule (*Federal Register* 71:53837-53951) to revise the areas currently designated as critical habitat for the marbled murrelet in Washington, Oregon, and California. (See Attachment 1.) The proposed rule solicits information on several topics, including the reasons why any areas should or should not be designated as critical habitat and the potential economic impacts such designation may have on affected interests, particularly small entities.

The current marbled murrelet critical habitat proposal stems from a legal challenge to the Service's May 1996 final rule designating critical habitat for this species (*Federal Register* 61: 26256-26320). In that rule, the Service designated 3,887,800 acres of critical habitat, of which approximately 477,300 acres are Federal lands within Late Successional Reserves in northern California. In response to the aforementioned litigation, the Service entered into a settlement agreement with the American Forest Resource Council and the Western Council of Industrial Workers that calls for it to re-propose critical habitat, prepare a new economic analysis, and develop a new final critical rule by August 30, 2007.

The September 2006 proposal identifies 3,590,642 acres as essential to the conservation of the marbled murrelet. Accordingly these areas are re-proposed as critical habitat. However, pursuant to section 4(b)(2) of the Endangered Species Act, the Service is considering excluding 3,368,950 of these acres from the final critical habitat designation.¹ Thus, the Services' proposed action, if adopted in its entirety, would result in a final revised designation of approximately 221,692 acres

¹ Section 4(b) of the ESA requires the Service to designate critical habitat, and make revisions thereto, on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. **The Service may exclude any area from critical habitat if it determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat**, unless it determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

of critical habitat for the marbled murrelet. No Federal lands in California are included among the 221,692 acres that would be designated as critical habitat under the current proposal.²

Through the attached proposal, the Service also intends to revise the entry in 50 CFR 17.11 concerning the scientific name of the marbled murrelet from *Brachyramphus marmoratus marmoratus* to *Brachyramphus marmoratus* to reflect recent taxonomic information.

Please review the proposed rule, and associated maps, and advise CA-930 (Attn: Ed Lorentzen) if you have comments or suggestions regarding the proposed revision of marbled murrelet critical habitat. The deadline for submitting comments to the Service is November 13, 2006. Please provide us with your comments, if any, in electronic format by the close of business November 1, 2006.

Questions regarding this proposal may be directed to Ed Lorentzen at (916) 978-4646.

Signed by:
James Wesley Abbott
Associate State Director

Authenticated by:
Richard A. Erickson
Records Management

Attachment

1 - Proposed Rule to Revise Critical Habitat for the Marbled Murrelet – (115 pp)

Distribution

WO-230 (Attn: Steve Lydick)
CA-930 (Attn: Paul Roush)
OR-931 (Attn: Joe Lint)

² Page 53847 of the proposed rule states: “We now believe that the late successional reserves (LSRs) designated through the Northwest Forest Plan are appropriate for evaluating for exclusion from the final designation under section 4(b)(2) of the Act.”